

VPH

IN THE HIGH COURT OF JUDICATURE AT BOBBY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL No.28 OF 2007
IN
WRIT PETITION No. 5929 OF 2006

Office notes, :
office memoranda :
of coral, :
appearances, :
Court's orders : Court's or Judge's
directions & : order
Registrar's :
orders :

Mr. K. S. Bapat i/b A.H.
Fatangare, advocate for the
appellant.

Mr. M. S. Topkar, advocate for
the respondent.

CORAM: J. N. PATEL,
AND
A. A. SAYED, JJ.

DATE : JULY 30, 2007.

P.C.:

. Heard. The appellant,
original respondent before the
Labour Court in a complaint being
Complaint (ULP) No. 56 of 1995,
raised preliminary issue in regard
to the finding of the Inquiry
Officer.

2. The respondent has filed a complaint, alleging therein that his service came to be terminated on the basis of incorrect findings of the Inquiry Officer, which was not supported by the evidence on record. The Labour Court therefore, considered this as a preliminary issue and gave a finding that the findings of the Inquiry Officer are not justified by the evidence on record. The findings of the Labour Court were challenged before the Industrial Court, which upheld the order of the Labour Court. Aggrieved by the same, the employer approached this Court by filing Writ Petition, impugning the finding of the Labour Court and Industrial Court. The said Writ Petition came to be summarily rejected by the learned Single Judge of this Court, by observing that, impugned order, however, permits the petitioner/employer to prove charges

against the delinquent employee by adducing proper evidence in the Court, and therefore, the findings given by the Labour Court on the preliminary issue, which has been upheld by the Industrial Court, does not call for any interference.

3. The learned counsel appearing for the employer strenuously argued before us that the respondent employee had conceded at one stage that he has no grievance in respect of fairness and propriety of the Inquiry, and he should not have raised the issue of lack of evidence, which has been taken up by the Labour Court as a Preliminary Issue, resulting in passing the impugned order. It is submitted that the findings of the Inquiry Officer is based on evidence on record and run into several pages.

4. It is submitted that in case the Labour Court by deciding the

complaint on merit comes to the conclusion that charges are not proved against the employer, it can well quash and set aside the order or termination, rather than calling upon the employer to adduce evidence to establish the charge of the Inquiry.

5. In our view, rather than undertaking such an exercise, it was nothing wrong on the part of the Labour Court to have taken view that Inquiry stands vitiated, and came to the conclusion that the charges were not found to be established, without there being any evidence on record in support, and in fairness the appellant employee has been given an opportunity to establish the charges by adducing fresh evidence if any. Further, the finding of the Labour Court has been upheld by the learned Single Judge, and therefore the learned Single Judge was justified in not interfering with the same in

Writ jurisdiction, and therefore, we
do not find any merits in this
Letters Patent Appeal. Hence, the
appeal is dismissed accordingly.

Sd/-
[A. A. SAYED, J.] [J. N. PATEL, J.]

Sd/-